



Department of Defense DIRECTIVE

NUMBER 5105.4

September 5, 1989

DA&M

SUBJECT: Department of Defense Federal Advisory Committee Management Program

- References:
- (a) Public Law 92-463, "Federal Advisory Committee Act," October 6, 1972, Title 5, United States Code Annotated, Appendix 2
 - (b) Title 41, Code of Federal Regulations, Part 101-6.10, General Services Administration Final Rule, "Federal Advisory Committee Management," December 2, 1987
 - (c) [DoD Directive 5105.18](#), "DoD Committee Management Program," March 20, 1984 (under revision)
 - (d) DoD Directive 4205.2, "DoD Contracted Advisory and Assistance Services (CAAS)," January 27, 1986
 - (e) [DoD Directive 5500.7](#), "Standards of Conduct," May 6, 1987
 - (f) Title 5, United States Code, Section 552b, "Government in the Sunshine Act"
 - (g) DoD Directive 7750.5, "Management and Control of Information Requirements," August 7, 1986

1. PURPOSE

This Directive implements reference (a) by establishing policies and assigning responsibilities for the administration of the Federal Advisory Committee Act (FACA) within the Department of Defense.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Joint Chiefs of Staff (JCS), the Joint Staff, the Unified and Specified

Commands, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "DoD Components"). For the OSD, the Director of Administration and Management (DA&M) is designated to carry out the functions and responsibilities of the component head.

3. DEFINITION

3.1. Federal Advisory Committee. Any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or subgroup thereof (that is not composed wholly of full-time employees of the Federal Government), that is established by statute, or established or utilized by the President or any agency official for obtaining advice or recommendations.

4. POLICY

4.1. Advisory committees shall be established and administered consistent with the FACA (reference (a)), the General Services Administration (GSA) Final Rule (reference (b)), and this Directive. They shall be established only when they are determined to be essential, and their number should be kept to an absolute minimum. Advisory committees shall be terminated when they are no longer carrying out the purpose for which they were intended.

4.2. Committees, other than DoD Federal advisory committees, shall be established consistent with the provisions of DoD Directive 5105.18 (reference (c)).

4.3. Excluded from coverage of the FACA are the following:

4.3.1. Any committee composed wholly of full-time employees of the Federal Government.

4.3.2. Any advisory committee exempted by an Act of Congress.

4.3.3. Any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials.

4.3.4. Any committee established to perform primarily operational, as opposed to advisory, functions.

4.3.5. Any meeting initiated by the President or one or more Federal officials for obtaining advice or recommendations from one individual.

4.3.6. Any meeting initiated by one or more Federal officials with more than one individual for obtaining the advice of individual attendees and not for the purpose of utilizing the group to get consensus advice or recommendations.

4.3.7. Any meeting initiated by a group with the President or one or more Federal officials for expressing the group's view, provided that the President or Federal official(s) does not use the group recurrently as a preferred source of advice or recommendations.

4.3.8. Meetings of two or more advisory committee or subcommittee members convened solely to gather information or conduct research for a chartered advisory committee, to analyze relevant issues and facts, or to draft proposed position papers for deliberation by the advisory committee or a subcommittee of the advisory committee.

4.3.9. Any meeting with a group initiated by the President or one or more Federal officials for exchanging facts or information.

4.4. Advisory committees may not be established to make decisions, conduct agency operations, or perform functions that can be carried out by existing agency staffs.

4.5. Membership of each advisory committee shall be balanced in terms of the points of view represented and the functions to be performed. Committee sponsors shall develop criteria for membership consistent with committee requirements and document the reasons for membership selections.

4.6. Except when otherwise specified by the President or Congress, membership on DoD advisory committees must be approved by the Secretary of Defense, Deputy Secretary, or their designee. Individuals may not serve as advisory committee members for more than four years, unless an extension is approved by one of these officials.

4.7. All non-Federal Government advisory committee members must be appointed as individual consultants. These appointments must be made annually, consistent with enclosure E2. of DoD Directive 4205.2 (reference (d)).

4.8. Non-Federal Government advisory committee members shall be encouraged to serve without compensation. Before a committee member may be compensated, the head of the activity to whom the committee reports must certify that appointment of the member is essential to obtain the necessary balance or expertise and that, without compensation, the member is not available. Approvals for compensation shall be granted by the heads of the DoD Components or their designees.

4.9. Non-Federal Government advisory committee members being compensated at a basic rate of pay equal to, or greater than, General Schedule (GS) -16 (step 1), and expected to serve more than 60 days during a calendar year, must file Standard Form (SF) 278 (Executive Personnel Financial Disclosure report) prior to appointment. Other advisory committee members, including those serving without compensation, must file Defense Department (DD) Form 1555 (Confidential Statement of Affiliations and Financial Interests) prior to appointment. Further information on filing of financial disclosure reports by special government employees is contained in DoD Directive 5500.7 (reference (e)).

4.10. For each advisory committee, a Federal officer or employee shall be designated to approve or call each meeting, approve the agenda, attend each meeting, and adjourn meetings when he or she determines it to be in the public interest.

4.11. Timely notice of advisory committee meetings shall be published in the Federal Register and such meetings shall be open to the public.

4.12. The heads of DoD Components, or their designees, may close all or part of an advisory committee meeting to the public, in coordination with the cognizant general counsel, citing the appropriate provisions of 5 U.S.C. 552b (reference (f)) that justify the closure. Determinations to close meetings shall be in writing and a summary of meeting activities shall be prepared.

4.13. Reports, records, and minutes of advisory committee meetings and other activities shall be maintained and/or submitted consistent with the FACA (reference (a)) and the GSA Final Rule (reference (b)).

5. RESPONSIBILITIES

5.1. The Director of Administration and Management, Office of the Secretary of Defense (DA&M, OSD), shall:

5.1.1. Provide guidance on policies and procedures for the establishment and administration of DoD advisory committees.

5.1.2. Ensure that DoD advisory committees are established and administered consistent with references (a) and (b), and this Directive.

5.1.3. Designate a Committee Management Officer who shall carry out the policies contained in references (a) and (b), and this Directive.

5.1.4. Represent the Department of Defense and maintain liaison with the GSA and other Government Agencies on matters involving DoD advisory committees.

5.1.5. Periodically review the operations and records of DoD advisory committees for conformance to applicable laws, policies, and regulations.

5.1.6. Review annually the need to continue each existing advisory committee, consistent with the public interest and the intended purpose of the committee.

5.1.7. Review each advisory committee prior to the expiration of its two-year charter and determine the need for renewal, consistent with the provisions of Section 14 of the FACA (reference (a)).

5.1.8. Obtain reports and information on DoD advisory committees consistent with the FACA (reference (a)), the GSA Final Rule (reference (b)), this Directive, and DoD Directive 7750.5 (reference (g)).

5.2. The Heads of DoD Components, their designees, or OSD officials sponsoring advisory committees shall:

5.2.1. Ensure that DoD advisory committees under their cognizance are established and administered consistent with references (a) and (b), and this Directive.

5.2.2. Submit requests for establishment, revision, and notification of terminations of advisory committees to the DA&M.

5.2.3. Designate a Committee Management Officer to carry out assigned advisory committee responsibilities for the Component.

5.2.4. In coordination with the cognizant general counsel, make a

determination, in writing, that all or part of an advisory committee meeting be closed to the public.

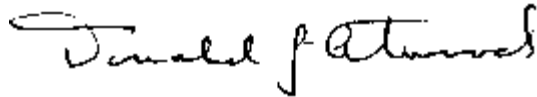
5.2.5. Approve compensation for non-Federal Government advisory committee members. For OSD, the DA&M shall be the approving authority.

5.2.6. Maintain information about the membership and activities of advisory committees under their cognizance, consistent with references (a) and (b), and this Directive.

5.2.7. Submit the reports required by references (a), (b), and (e) to the appropriate offices.

6. EFFECTIVE DATE

This Directive is effective immediately.

A handwritten signature in dark ink, appearing to read "Donald J. Atwood". The signature is fluid and cursive, with the first name "Donald" being more prominent.

Donald J. Atwood
Deputy Secretary of Defense